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An Act To Amend the Laws Governing the Withdrawal of a Municipality from a Regional School Unit

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, since January 1, 2012, the residents of a municipality that has been a member of a regional school unit for at least 30 months have been allowed to petition to withdraw from the regional school unit pursuant to the Maine Revised Statutes, Title 20-A, section 1466; and

Whereas, certain withdrawal committees established subsequent to successful petitions to withdraw from regional school units have not been able to submit withdrawal agreements to the voters in the petitioning municipalities because the regional school unit boards have not been negotiating in good faith with the withdrawal committees; and

Whereas, it is necessary to amend the provisions of the Maine Revised Statutes, Title 20-A, section 1466 to permit the residents of a municipality that has been a member of a regional school unit for at least 30 months a legitimate opportunity to seek voter approval to withdraw from the regional school unit; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §1466, sub-§4, ¶E is enacted to read:

E. If an agreement is not submitted to the commissioner within 90 days after the withdrawal committee is formed or within 15 days after an extension of time is granted by the commissioner upon the request of the withdrawal committee pursuant to paragraph A, it is presumed that there is a dispute regarding the agreement for withdrawal and the commissioner shall provide an alternative dispute resolution process for resolving the dispute between the withdrawal committee and the directors of the regional school unit board regarding the agreement for withdrawal. This process applies only to consideration of the provisions to be contained in the agreement for withdrawal as set forth in paragraph A, subparagraphs (1) to (11). For the purposes of this paragraph, "party" means the withdrawal committee or the directors of the regional school unit board.

(1) Within 15 calendar days following the last meeting of the parties that occurred prior to the 90-day deadline described under paragraph A, either party may notify the commissioner that it believes that an agreement for withdrawal in accordance with paragraph A, subparagraphs (1) to (11) will not be reached by the parties. All consideration of preparing the agreement for withdrawal must cease, and each party shall submit in writing to the commissioner a final offer

consisting, at a minimum, of the party's final offer, a draft of the proposed provisions to be contained in the agreement for withdrawal as set forth in paragraph A, subparagraphs (1) to (11) and any other pertinent material. The commissioner shall provide copies of each party's written final offer to the arbitrator selected pursuant to this paragraph.

(2) Not later than 45 calendar days following the last meeting of the parties that occurred prior to the 90-day deadline described under paragraph A, the commissioner or the commissioner's representative shall meet with the parties and shall present a list with the names of 3 proposed neutral arbitrators. Each party may strike from the list one name peremptorily. The parties shall strike names alternately, and the party entitled to strike the first name must be chosen by lot. The one name remaining after each party has struck one name is the arbitrator. The withdrawal committee and the directors of the regional school unit board are equally responsible for compensating the arbitrator and for any reasonable expenses incurred by the arbitrator in fulfilling the responsibilities described in subparagraph (3).

(3) The arbitrator may hold hearings, administer oaths, examine witnesses and documents, take testimony, receive evidence and issue subpoenas to compel the attendance of witnesses and the production of records. The arbitrator may petition the District Court to enforce the arbitrator's order compelling the attendance of witnesses and the production of records. The arbitrator may at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in this section. Not later than 90 days following the last meeting of the parties that occurred prior to the 90-day deadline described under paragraph A, the arbitrator shall choose the final offer of one party. The arbitrator shall prepare the agreement language for that offer, submitted pursuant to subparagraph (1), in a written proposal that contains the provisions of the agreement for withdrawal as set forth in paragraph A, subparagraphs (1) to (11). The agreement language prepared by the arbitrator must be presented to the parties and to the commissioner.

(4) The final offer selected by the arbitrator presented to the parties and the commissioner pursuant to subparagraph (3) is not binding on the parties unless it is approved by a majority vote of the municipality pursuant to subsection 9. The commissioner shall give conditional approval to the final offer selected by the arbitrator, which must be presented to the voters of the petitioning municipality at a district meeting held pursuant to section 1301, subsection 3, paragraph D.

Sec. 2. 20-A MRSA §1466, sub-§9, as repealed and replaced by PL 2011, c. 678, Pt. J, §1, is amended to read:

9. Required vote. Before the municipality may withdraw from the regional school unit, the withdrawal agreement must be approved by a majority vote of those casting valid votes in the municipality, and the total number of votes cast for and against withdrawal at the municipal vote must equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election.

~~This subsection is repealed January 1, 2015.~~

Sec. 3. 20-A MRSA §1466, sub-§9-A, as enacted by PL 2011, c. 678, Pt. J, §2, is amended to read:

9-A. Required vote; exception for a municipality of a school administrative district that was reformulated as a regional school unit. A 2/3 vote of those casting valid votes in the municipality is required before a municipality that is a member municipality of a school administrative district that was reformulated as a regional school unit pursuant to Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12 may withdraw from the regional school unit.

~~This subsection is repealed January 1, 2015.~~

Sec. 4. 20-A MRSA §1466, sub-§9-B, as enacted by PL 2011, c. 678, Pt. J, §3, is repealed.

Sec. 5. 20-A MRSA §1466, sub-§10, as enacted by PL 2009, c. 580, §9, is repealed.

Sec. 6. 20-A MRSA §1466, sub-§13, as amended by PL 2011, c. 678, Pt. J, §4, is further amended to read:

13. Determination of results; execution of agreement. If the commissioner finds that a majority of the voters voting on the article has voted in the affirmative ~~and the total number of votes cast for and against the article equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election~~, the commissioner shall notify the municipal officers and the regional school unit board to take steps for the withdrawal in accordance with the terms of the agreement for withdrawal.

~~This subsection is repealed January 1, 2015.~~

Sec. 7. 20-A MRSA §1466, sub-§13-A, as enacted by PL 2011, c. 678, Pt. J, §5, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This emergency bill provides for a process of so-called final offer arbitration as a means to resolving a dispute between a withdrawal committee and the directors of the regional school unit board regarding an agreement for withdrawal for a municipality that seeks to withdraw from a regional school unit. The bill proposes to require that, in the event that a withdrawal committee and the directors of the regional school unit board are unable to reach agreement on the provisions of an agreement for withdrawal, the Commissioner of Education, in consultation with the parties, shall appoint an arbitrator to assist the parties in the settlement of the dispute related to the agreement for withdrawal between the parties.

Current law requires that the total number of votes cast for and against the withdrawal agreement must equal or exceed 50% of the municipal votes cast for a candidate for Governor in the last gubernatorial

election. This bill eliminates that requirement while still maintaining the requirement that the withdrawal agreement is approved by a majority vote.

Finally, the bill removes changes made by Public Law 2011, chapter 678, Part J that would have reinstated the 2/3 vote requirement for approving a withdrawal agreement on January 1, 2015.